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Attorneys for Plaintiff-Counterclaim Defendant
NETAPP, INC.,

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

NETWORK APPLIANCE, INC.
Plaintiff-Counterclaim Defendant,
v.
SUN MICROSYSTEMS, INC.
Defendant-Counterclaim Plaintiff.

Case No. 3:07-CV-06053-EDL

**DECLARATION OF AARON M.
NATHAN IN SUPPORT OF PLAINTIFF
NETAPP, INC.'S ADMINISTRATIVE
MOTION TO FILE UNDER SEAL THE
UNREDACTED VERSIONS OF
PLAINTIFF NETAPP, INC.'S
OPPOSITION TO DEFENDANT SUN
MICROSYSTEMS, INC.'S MOTION FOR
PARTIAL STAY AND DECLARATION
OF DAVID HITZ IN SUPPORT
THEREOF**

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2 I, Aaron M. Nathan, declare:

3 1. I am a member of the Bar of this Court and an associate at the law firm of Weil,
4 Gotshal & Manges LLP, counsel of record for the Plaintiff NetApp, Inc. ("NetApp"), in this case.
5 I submit this declaration pursuant to Civil Local Rules 7-11 and 79-5. If called upon as a witness,
6 I could competently testify to the truth of each statement herein.

7 2. The unredacted version of Plaintiff NetApp, Inc.'s Opposition to Defendant Sun
8 Microsystems, Inc.'s Motion for Partial Stay is designated by NetApp as "Highly Confidential –
9 Attorneys' Eyes Only" under the Protective Order entered in this case.

10 3. The unredacted version of the Declaration of David Hitz in Support of NetApp,
11 Inc.'s Opposition to Defendant Sun Microsystems, Inc.'s Motion for Partial Stay is designated by
12 NetApp as "Highly Confidential – Attorneys' Eyes Only" under the Protective Order entered in
13 this case.

14 4. Attached as **Exhibit A** to this Declaration is a true and correct copy of NetApp's
15 redacted version of the Declaration of David Hitz in Support of NetApp, Inc.'s Opposition to
16 Defendant Sun Microsystems, Inc.'s Motion for Partial Stay.

17 5. NetApp's redacted version of the Declaration of David Hitz in Support of NetApp,
18 Inc.'s Opposition to Defendant Sun Microsystems, Inc.'s Motion for Partial Stay at ¶ 21 states,
19 "The information contained in this declaration pertains to NetApp's confidential business
20 strategies and analysis of the storage systems market. There is a risk that NetApp would be
21 adversely affected if the contents of this declaration were not protected from disclosure and
22 misuse. For example, to the extent that startups or vendors currently distributing servers
23 equipped with Solaris are not already considering integrating ZFS into products and becoming
24 new competitors of NetApp, the concerns expressed herein could become a self-fulfilling
25 prophesy if not filed under seal."

26 6. As required by Civ. L. R. 7-11, counsel for the parties met and conferred, but were
27 unable to reach a stipulation.
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2 I declare under penalty of perjury that the foregoing is true and correct to the best of my
3 knowledge and belief.

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5 Dated: April 29, 2008

Respectfully submitted,

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7 /s/ Aaron M. Nathan
8 Aaron M. Nathan
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